



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

MISCELLANY.

Loyalty in War Time.—Loyalty in peace times and loyalty in war times are two distinct things. Not much is required to pass the loyalty test when one's country is not at war; a simple compliance with the law is all that is required.

But loyalty in war times is not a passive quality. At such a time one may be without loyalty and still not be disloyal. A person of this type will do nothing either to assist or to harm his country. He will not give himself to his country's service and he will not contribute financial support. Neither will he discourage others from doing this. He will do or say nothing treasonable, and neither will he do or say anything to put heart in the fighting forces or to uphold the nation in its struggle. He will be simply a passive onlooker. And that is not being loyal.

Dealer's Talk.—It has long been established that mere eulogy by a seller of his wares or exaggerated praise of their value or quality does not give rise to a warranty. This is a somewhat cynical rule of the common law, apparently recognizing that a certain amount of lying is incidental to a mercantile transaction, and results quite logically in the maxim "caveat emptor." It legalizes those practices which made an English laureate ask: "Who would believe in a tradesman's wares or his word?" It is to be regretted that the uniform sales act has recognized this sordid standard of morals enacting (§ 12) that no affirmation of the value of goods by the seller shall be construed as a warranty. Certainly such an affirmation, if false or misleading, is beneath the modern standard of business ethics. The better class of merchants now sedulously avoid any misleading affirmation of value in their advertisements, and the statement of value as distinct from price is deprecated by many. It is the function of law to enforce on the dishonest the observance of the moral standards to which the upright voluntarily conform, and a codification of law designed for uniform adoption should not perpetuate a rule of which honorable merchants disdain to take advantage. Recognizing that law should keep pace with the advance of ethical standards, the federal supreme court declined in *U. S. v. New South Farm, etc., Co.*, 241 U. S. 64, Ann. Cas. 1917C 455, to commit itself unnecessarily to the proposition that mere "puffing" does not constitute fraud. Certainly the time for a legislative recognition of a zone of legalized falsehood in commercial transactions is long past.—Law Notes.

Marriage by Telephone.—Marriage by proxy has long been recognized in some parts of Europe, and several recent instances have

been reported of such marriages, where the exigencies of military service prevented the personal attendance of the groom. In the United States marriage by proxy is unknown, but it is reported that military necessity has recently led to an analogous expedient, an officer at Camp Mills, L. I., being wedded by telephone to a woman in Georgia. There is little question as to the validity of this particular marriage, it being of course assumed that the identity of the parties was properly ascertained. A common-law marriage is valid both in New York (*Ziegler v. Cassidy*, 220 N. Y. 98) and in Georgia (*Drawdy v. Hesters*, 130 Ga. 161), so that the interesting question of the locus of the matrimonial contract becomes immaterial. A contract made by telephone is valid (*Yolo Bank v. Sperry Flour Co.*, 141 Cal. 314; *Tynu v. Converse*, 180 Mich. 195; *Herendeen Mfg. Co. v. Moore*, 66 N. J. Law 74), and certainly no greater formality is required of a contract as favored by the law as that of marriage.

But in the jurisdictions where an official or ceremonial marriage is requisite some difficulty is presented, as it is very doubtful whether an official transaction can be conducted by telephone. An oath cannot be thus administered (*Carnes v. Carnes*, 138 Ga. 1; *Sullivan v. National Bank*, 169 App. Div. (N. Y.) 469). Neither may a wife's separate acknowledgment to her husband's deed be taken by telephone (*Wester v. Hurt*, 123 Tenn. 508, Ann. Cas. 1912C, 329). If the practice becomes common it may be necessary to enact a law as to soldiers' marriages analogous to the testamentary privileges now accorded.—Chicago Legal News.

The Woman Lawyer and the War.—Realizing how important a factor the trained business woman was to be in the war, the government commandeered the services of the skilled workers in the Y. W. C. A. ranks, to handle the girl and woman question in the war industries. Not only did this mean the club and recreation work for the women industrial workers at home, but it meant welfare work for the same group abroad and more recently for the girls of the American Signal Corps. This has meant the mobilization of the business women of the country, and this mobilization itself has called for leadership of special talent. One of the first of the young women to be selected by the Association for this important work was a woman lawyer, Miss Lena Phillips, of Lexington, Ky., a graduate of the University of Lexington, who has been a lawyer of reputation in her home city. Miss Phillips is head of the Y. W. C. A. movement to mobilize business women for war service, as well as their work in the eastern military division.

Another woman of legal training, who recently has been elevated to a unique position, is Miss Clara Graecen of the Treasury Department, expert accountant and law clerk, who is one of the latest of

the government's women experts to join the forces of the Comptroller of the Treasury in France. Miss Greacen will have jurisdiction to decide all questions involving the right of any one to be paid purely by the government, and of all legal questions upon which the right to such payment depends.

Miss Winifred Notman of Brooklyn is still another young woman attorney who was sent to France to do Y. W. C. A. work. There her superior attainments were found to be such that she was drafted for the U. S. Army, and she is now working in the Assistant Paymaster's Office of the Marine Corps in France.

Married Woman's Obligations of Obedience—Pauline Injunction.

—In *Virginia R. & P. Co. v. Gorsuch*, 120 Va. 655, 91 S. E. 632, Ann. Cas. 1918B, 838, Judge Prentis said: "Notwithstanding the advances made by modern women towards political and economic independence of man, it still remains true that the normal woman married to the normal man recognizes the obligations of obedience contained in the marriage vow, and observes the Pauline injunction to remain subject to her husband."

Chief Justice Marshall.—There is an interesting story of the circumstances under which John Marshall came to be appointed Chief Justice of the United States Supreme Court—the most omnipotent tribunal in the world.

When at the age of forty-five he was a practitioner at the Richmond bar he was summoned by General Washington to Mount Vernon. He rode the hundred miles from Richmond to Mount Vernon horseback, for there were no railroads at that day, arriving at Mount Vernon after dark on the evening of the third day.

On arriving at Mount Vernon General Washington informed him that his object in summoning him was to request him to become a member of Congress as there were some important matters to come before that body. Marshall said he did not see how he could comply with this request as his practice at the Richmond bar was necessary for the support of his family. "What," said Washington, in an eager and almost angry tone, "are you not willing to make a temporary sacrifice for the good of your country? But it is bedtime, go to bed and we will talk this over in the morning."

Marshall went to bed, but not to sleep. He lay awake nearly all night revolving in his mind how he could avoid an interview with Washington in the morning. He came to the conclusion to rise early before any of the family were stirring, go to the stable, saddle his horse and make his escape. But he counted without his host. As he was leaving his room Washington, who was already up, ac-

costed him. "Where are you going?" said he. "Go back to bed, it will be two hours before breakfast."

After breakfast Washington resumed the subject and the sequel was that Marshall complied with his request. He returned to Richmond, announced himself a candidate for Congress and was elected.

When he arrived at Washington he found pending before Congress a question entirely fitted to his acute and logical turn of mind, the case of the famous Jonathan Robbins who claimed to be an American citizen but who was demanded by the British government as a deserter from her naval service, was delivered up and hanged from the yard-arm of an English man-of-war.

Marshall spoke in defense of the administration in delivering Robbins up and made the master speech of the occasion, distancing competition and leaving the other speakers, both associates and opponents, far behind. Seldom has any one speech brought so much fame and high promotion. In nine months thereafter he was Secretary of War, Secretary of State, and Chief Justice of the Supreme Court of the United States.

He presided over the Supreme Court for thirty-five years. On the bench he was grave, patient, attentive. Off the bench he was sociable, affable, and easily approached. He was a man of the greatest simplicity of manners as the following incident will show. He was a member of a social club in Richmond that met every Saturday afternoon at the Mint Spring a mile out of the city to play the game of pitching quoits. At every meeting of the club there was brewed a bowl of punch of which Marshall always partook, but in moderation. Marshall's quoits were much heavier than those of the other members, but with his long sinewy arms he threw them with ease.

When two quoits were so near the peg that it was difficult to decide which was the nearest Marshall would get down on his knees and with a straw measure the distance of the two quoits from the peg, showing as much interest as if he were listening to the argument of an important case in court.

Marshall belonged to the constellation of great men that shone so bright in Virginia in their day. He will stand forever as an example for the imitation of young men who aspire to positions of eminence, and he will go down to posterity as worthy "on fame's eternal beadroll to be filed," and as one of the few, the mortal names, that were not born to die.

L. S. Mayre.

Charlottesville, Va.